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Attorneys for Defendant
COMCAST INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DANIEL KEATING-TRAYNOR on
behalf of himself and all others similarly
situated;

Plaintiffs,

vs.

AC SQUARE INC.; COMCAST INC.;
AFSHIN GHANEH; ANDREW
BAHMANYAR; AND DOES 1-60
INCLUSIVE;

Defendants.

Case No. CV-08-2907-MHP

**[PROPOSED] ORDER GRANTING
DEFENDANT COMCAST INC.'S MOTION
TO DISMISS**

FRCP Rule 12(B)(6)

Date: September 15, 2008
Time: 2:00 p.m.
Courtroom: 15
Judge: Honorable Marilyn H. Patel

WHEREFORE, on September 15, 2008, the Motion to Dismiss Plaintiff Daniel Keating-Traynor's ("Plaintiff") First Amended Complaint filed by Defendant Comcast Inc. ("Comcast" or "Defendant") came on for regularly scheduled hearing in Courtroom Fifteen, the Honorable Marilyn H. Patel presiding. Daryl Landy of Morgan, Lewis & Bockius LLP appeared on behalf

of Comcast and Daniel Berko appeared on behalf of Plaintiff. Upon consideration of the pleadings, papers, and arguments of counsel, and with good cause shown, it is hereby

ORDERED AND ADJUDGED THAT:

Defendant's Motion is **GRANTED**.

Plaintiff's First Claim for Violation of the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* ("FLSA") is dismissed, without leave to amend, because it is time-barred by the FLSA's maximum three-year statute of limitations. 29 U.S.C. § 255.

Plaintiff's Second Claim is also dismissed, without leave to amend, because it is time-barred by the maximum three-year statute of limitations. *Harrell v. 20th Century Ins. Co.*, 934 F.2d 203, 208 (9th Cir. 1991) (holding applicable statute of limitations for a civil conspiracy claim is statute of limitations for underlying claim); *Risk v. Kingdom of Norway*, 707 F. Supp. 1159, 1170, n. 13 (N.D. Cal. 1989) (same).

Accordingly, Plaintiff's First Amended Complaint against Comcast, including all class allegations, is dismissed, in its entirety, without leave to amend.

IT IS SO ORDERED.

Dated: _____

By: _____
United States District Court Judge

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